

## BANKING DIVISION[187]

### Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code section 535B.14, the Division of Banking hereby gives Notice of Intended Action to amend Chapter 18, “Mortgage Bankers and Mortgage Brokers,” Iowa Administrative Code.

The proposed amendments are primarily designed to implement 2010 Iowa Acts, Senate File 2348, which will become effective July 1, 2011, and which requires independent real estate closing companies to be licensed as closing agents by the Banking Division beginning July 1, 2011. 2010 Iowa Acts, Senate File 2348, requires applicants for closing agent licensure to submit to background checks and to post a bond to be licensed.

The amendments address the processes and requirements for applying for and renewing a closing agent license. Because Chapter 18 already addresses mortgage banker and mortgage broker licensees, the amendments clarify when the rules apply only to a mortgage banker or mortgage broker licensee and not to a closing agent. The amendments make some minor changes to requirements applicable to mortgage bankers and mortgage brokers and require mortgage bankers and mortgage brokers to maintain certain records in an electronic format. The amendments also address accounting requirements for closing agent trust fund accounting and internal controls, closing standards, and the hiring of individuals responsible for handling money. Finally, the amendments outline a reporting obligation in the event of defalcation of trust funds and clarify when a real estate broker is engaged in the practice of real estate brokerage and, therefore, is exempt from the closing agent licensing requirement.

Interested persons may make written comments on the proposed amendments on or before July 19, 2011. Such written material should be directed to the Superintendent of Banking, Banking Division, Department of Commerce, 200 East Grand Avenue, Suite 300, Des Moines, Iowa 50309. Persons who want to convey their views orally should contact the Superintendent of Banking, Department of Commerce, at (515)281-4014 or at 200 East Grand Avenue, Suite 300.

These amendments were also Adopted and Filed Emergency and are published herein as **ARC 9593B**. The content of that submission is incorporated by reference.

These rules are not subject to waiver.

Jobs impact statement: The Banking Division does not believe the amendments will have a significant impact, either positive or negative, on private-sector jobs and employment opportunities in Iowa. It is possible a few very small companies that are currently providing real estate closing services will decide not to obtain a license and, as a result, will close, but if that happens, it will be the result of 2010 Iowa Acts, Senate File 2348, not the result of these amendments.

These amendments are intended to implement Iowa Code chapter 535B and 2010 Iowa Acts, Senate File 2348 [chapter 1111].